

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
3

4   United States of America,  
5                                   Plaintiff,  
6   vs.                               Criminal Action No. 3:19-cr-10  
7   Paul Glen Hamilton, Jr.,  
8                                   Defendant.  
9

10               Proceedings had in the Guilty Plea Hearing in the  
11   above-styled action on July 24, 2019, before the Honorable  
12   Robert W. Trumble, Magistrate Judge, at Martinsburg, West  
13   Virginia.  
14

15   APPEARANCES:

16   On behalf of the United States of America:

17   Ms. Kimberley K. Crockett  
18   Assistant United States Attorney  
19   United States Attorney's Office  
20   217 West King Street, Ste. 400  
21   Martinsburg, West Virginia 25401

22   On behalf of the defendant:

23   Mr. Aaron D. Moss  
24   Assistant Federal Public Defender  
25   Federal Public Defender's Office  
26   651 Foxcroft, Ste. 202  
27   Martinsburg, West Virginia 25401

28   The defendant was present in person.

29   Proceedings reported by means of stenotype; transcript produced  
30   by official court reporter.

                                  Kate A. Slayden, CCR, RPR  
217 West King Street, Room 214, Martinsburg, WV 25401  
304-267-5688

1 (Digitally-recorded proceedings in open court)

2 (July 24, 2019, 10:02 A.M.)

3 - - -

4 THE COURT: Good morning, everyone. Please be  
5 seated.

6 Nancy, would you call the case for me, please.

7 THE CLERK: This is the case of the United States of  
8 America versus Paul Glen Hamilton, criminal action number  
9 3:19-cr-10, defendant 1.

10 The Government is represented by counsel, Kim Crockett.  
11 The defendant is present in person and by counsel, Aaron Moss.  
12 Are the parties ready to proceed?

13 MS. CROCKETT: United States is ready.

14 MR. MOSS: Mr. Hamilton is ready.

15 THE COURT: All right. Good morning, everyone.  
16 We're scheduled for a nonbinding guilty plea to an indictment  
17 in this matter.

18 Mr. Moss, it's my understanding that Mr. Hamilton desires  
19 to plead guilty to the charge contained in Count 1 of the  
20 original indictment; is that correct, sir?

21 MR. MOSS: That's correct, Your Honor.

22 THE COURT: It's also my understanding that there is  
23 no applicable plea agreement in this case; is that correct,  
24 sir?

25 MR. MOSS: Correct.

1 THE COURT: All right. Thank you.

2 Mr. Hamilton, would you please stand, raise your right  
3 hand, and be sworn by the clerk.

4 (The defendant was sworn in.)

5 THE DEFENDANT: Yes, ma'am.

6 THE CLERK: Thank you, sir.

7 THE COURT: Please be seated.

8 Mr. Hamilton, do you understand that you're under oath, and  
9 if you answer any of my questions falsely, your answers may  
10 later be used against you in another prosecution for perjury or  
11 for making a false statement?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Sir, do you understand that if you lie,  
14 it may result in a higher sentence for you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, during the course of this hearing,  
17 I'm going to be asking you several questions. At any point,  
18 you should feel free to ask questions, ask for an explanation  
19 if you do not understand my question, or ask me to pause the  
20 proceedings so that you may confer with your attorney. Do you  
21 understand, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Would you state your full name for the  
24 record, please.

25 THE DEFENDANT: Paul Glen Hamilton, Jr.

1 THE COURT: And how old are you, Mr. Hamilton?

2 THE DEFENDANT: I'm 23 but I'm going to be 24.

3 THE COURT: All right. And how much education have  
4 you had, sir?

5 THE DEFENDANT: High school.

6 THE COURT: You can read, write, and understand  
7 English?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you recently been under the care of  
10 a doctor, a psychiatrist, or other medical professional for any  
11 serious physical or mental illness, including treatment for an  
12 addiction to drugs or alcohol?

13 THE DEFENDANT: Currently or before?

14 THE COURT: Are you currently seeing a doctor,  
15 psychiatrist, or other medical professional for treatment for  
16 any serious physical or mental illness, including any treatment  
17 for an addiction to drugs or alcohol?

18 THE DEFENDANT: No.

19 THE COURT: Have you received treatment in the past?

20 THE DEFENDANT: Yes.

21 THE COURT: Does any of that treatment that you've  
22 received in the past affect your ability to understand what  
23 we're doing in this proceeding today?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you currently using any form of a

1 controlled substance or any medication or alcohol that might  
2 affect your ability to understand this proceeding today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Mr. Moss, you've been dealing with  
5 Mr. Hamilton. Do you have any reason to question his  
6 competence, sir?

7 MR. MOSS: Your Honor, on June 3, 2019, Mr. Hamilton  
8 underwent a competency evaluation. Based on the results of  
9 that evaluation, I have no reason to question his competency.

10 THE COURT: All right. Thank you.

11 Mr. Hamilton, are you here today to enter a guilty plea?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Based on your responses, sir,  
14 I find that you are competent and capable of entering an  
15 informed plea.

16 Mr. Hamilton, my name is Robert Trumble. I'm the United  
17 States Magistrate Judge. You are charged with a felony  
18 offense. You have the right to have this plea taken by an  
19 Article III judge, sometimes called a district judge. Only you  
20 can give up that right, and I can only hear your plea if you  
21 agree to it by signing a waiver.

22 Now, I have on my bench a waiver that appears to bear your  
23 signature. Did you, in fact, sign this waiver, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Did you discuss it with Mr. Moss before

1 you signed it?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you understand the purpose for  
4 signing the waiver is to allow me to hear your change in plea  
5 today; is that correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did anyone force or pressure you into  
8 signing the waiver, Mr. Hamilton?

9 THE DEFENDANT: No, sir.

10 THE COURT: Mr. Moss, is it your understanding that  
11 your client agrees to this waiver?

12 MR. MOSS: Yes, Your Honor.

13 THE COURT: I find that the waiver has been properly  
14 executed and direct that it be filed.

15 Mr. Hamilton, do you understand that you have the right to  
16 be represented by counsel at every stage of these proceedings,  
17 including your sentencing; and if you cannot afford counsel,  
18 you have a right to have counsel appointed in your behalf?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Moss, do you or any member of your  
21 office represent anyone, including codefendants, who might be  
22 interested in the outcome of this matter?

23 MR. MOSS: No, sir.

24 THE COURT: Mr. Hamilton, let me ask you some  
25 questions about the representation that you've received from

1 Mr. Moss. Do you believe that you've had adequate time to  
2 discuss your case fully with Mr. Moss?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Has he been able to answer your questions  
5 about how best to proceed in this case?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Is there anything your lawyer has not  
8 done which you have asked him to do?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you completely satisfied with the  
11 legal advice that you've received from Mr. Moss?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Mr. Moss, during the time that you've  
14 represented Mr. Hamilton, has he been cooperative with you,  
15 sir?

16 MR. MOSS: He has, Your Honor.

17 THE COURT: Have you had adequate time to discover  
18 the Government's case?

19 MR. MOSS: I have.

20 THE COURT: Have you had adequate time to consider  
21 the possible defenses to the charge?

22 MR. MOSS: Yes, Your Honor.

23 THE COURT: Do you know of any viable defense to the  
24 charge contained in Count 1 of the original indictment?

25 MR. MOSS: No, Your Honor.

1           THE COURT: Have you had adequate time to consider  
2 the possible sentences?

3           MR. MOSS: Yes.

4           THE COURT: Have you discussed all of those issues  
5 with your client, Mr. Hamilton?

6           MR. MOSS: I have, Your Honor.

7           THE COURT: All right. Thank you.

8           All right. There is no plea agreement in this case so,  
9 Mr. Hamilton, it's my understanding that you plan to plead  
10 guilty to Count 1 of the original indictment; is that correct,  
11 sir?

12           THE DEFENDANT: Yes, sir.

13           THE COURT: Sir, have you received a copy of the  
14 original indictment filed against you?

15           THE DEFENDANT: Yes, sir.

16           THE COURT: Have you had an opportunity to read the  
17 original indictment?

18           THE DEFENDANT: Yes, sir.

19           THE COURT: Do you waive reading of the original  
20 indictment in open court?

21           THE DEFENDANT: Yes, sir.

22           THE COURT: You're pleading to Count 1 of the  
23 original indictment which charges you with possession of child  
24 pornography in violation of Title 18, United States Code,  
25 Section 2252A(a)(5)(B) and (b)(2).



1       Mr. Hamilton, how do you plead to the charge contained in  
2 Count 1 of the original indictment?

3               THE DEFENDANT: Guilty, sir.

4               THE COURT: Now, before I accept your plea, I want to  
5 make sure that there is a factual basis for your plea and that  
6 you understand the nature of the charge against you and the  
7 consequences of pleading guilty to the charge and that you  
8 understand the constitutional and other legal rights you will  
9 give up by pleading guilty and that you are pleading guilty  
10 voluntarily.

11       Sir, you are charged in Count 1 of the indictment with  
12 possession of child pornography in violation of Title 18,  
13 United States Code, Sections 2252A(a)(5)(B) and (b)(2).

14       Now, Title 18, United States Code, Section 2252A(a)(5)(B)  
15 states in its pertinent part as follows: Any person who  
16 knowingly possesses any book, magazine, periodical, film,  
17 videotape, computer disk, or any other material that contains  
18 an image of child pornography that has been mailed or shipped  
19 or transported using any means or facility of interstate or  
20 foreign commerce or in or affecting interstate or foreign  
21 commerce by any means, including by computer or that was  
22 produced using materials that have been mailed or shipped or  
23 transported in or affecting interstate or foreign commerce by  
24 any means, including by computer, shall be punished as provided  
25 in subsection (b).

1 Now, Title 18, United States Code, Section 2252A(b)(2)  
2 states in its pertinent part, "Whoever violates or attempts or  
3 conspires to violate subsection (a)(5)" -- what is the proper  
4 charge for this, Ms. Crockett?

5 MS. CROCKETT: I'm sorry, Your Honor?

6 THE COURT: What is the proper charge under  
7 2252A(b)(2)? In other words, what is the penalty under -- for  
8 this particular charge?

9 MS. CROCKETT: Oh, ten years for this defendant.

10 THE COURT: All right. Bear with me just one moment.

11 So Title 18, United States Code, Section 2252A(b)(2) states  
12 in its pertinent part, "Whoever violates or attempts or  
13 conspires to violate subsection (a)(5) shall be fined under  
14 this title or imprisoned not more than 10 years or both."

15 And that's the correct penalty for this particular case; is  
16 that correct, Ms. Crockett?

17 MS. CROCKETT: It is, Your Honor. The victim in this  
18 case is 14 years of age.

19 THE COURT: Mr. Moss, do you concur?

20 MR. MOSS: I do, Your Honor.

21 THE COURT: All right. Thank you.

22 Sir, do you understand the criminal statutes under which  
23 you've been charged?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, in order to establish that you

1 violated Title 18, United States Code, Section 2252(a)(5)(B),  
2 the United States must prove each of the following elements  
3 beyond a reasonable doubt: First, you knowingly possessed any  
4 book, magazine, periodical, film, videotape, computer disk, or  
5 any other material containing an image of child pornography;  
6 second, one of those visual depictions involved a prepubescent  
7 minor or a minor who -- prepubescent minor; third, the visual  
8 depictions were mailed, shipped, or transported in interstate  
9 or foreign commerce by any means, including by computer or  
10 produced using materials that were mailed, shipped, or  
11 transported in interstate or foreign commerce by any means,  
12 including by computer.

13 Now the phrase child pornography means any visual depiction  
14 of a minor engaging in sexually explicit conduct where the  
15 minor was engaged in sexually explicit conduct during  
16 production of the depiction. The term visual depiction  
17 includes any photograph, film, video, picture, or  
18 computer-generated image or picture whether made or produced by  
19 electronic, mechanical, or other means.

20 Sir, do you understand the elements of the statute under  
21 which you've been charged?

22 MR. MOSS: Your Honor, before we -- before  
23 Mr. Hamilton answers, I just want to clarify for the record, I  
24 do not believe that the charge Mr. Hamilton is pleading guilty  
25 to requires an image of a prepubescent minor. I think that

1 would trigger the sentencing enhancement under the statute.

2 THE COURT: Under the -- less than 12 since the minor  
3 is over the age of 12 in this case?

4 MR. MOSS: Correct, Your Honor.

5 THE COURT: So as to the second element, one of the  
6 visual depictions involved a minor would be a more appropriate  
7 description of the element of the charge?

8 MR. MOSS: Correct, Your Honor. Thank you.

9 THE COURT: All right. And as to the balance of that  
10 particular element phase, you're satisfied with that, Mr. Moss?

11 MR. MOSS: Yes, Your Honor.

12 THE COURT: All right. Given that correction,  
13 Mr. Hamilton, do you understand the elements of the statute  
14 under which you've been charged?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now considering those definitions,  
17 Mr. Hamilton, do you consider yourself to be guilty of  
18 violating Title 18, United States Code, Section 2252A(a)(5)(B)  
19 and (b)(2)?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Ms. Crockett, would you present your  
22 witness or proffer as to what the Government would have been  
23 able to prove in this case.

24 MS. CROCKETT: Yes, Your Honor. I will be proffering  
25 the evidence that we will present the testimony of Agent Ellen

1 Duffy with the FBI, Colleen Gibbins and Ted Snyder with the  
2 Berkeley County Sheriff's Department, minor victim identified  
3 as A.C., Joel Harvey, forensic scientist with the West Virginia  
4 Forensic Laboratory, among other witnesses at trial.

5 And the evidence would bear out that on or about September  
6 11, 2018, A.C., a minor female with a birth date of April 6,  
7 2004, was reported missing by her father. And on September 13,  
8 2018, law enforcement successfully located the minor by pinging  
9 her cell phone. And she was found in the custody of Paul  
10 Hamilton at an Econo Lodge Motel in Suffolk County, Virginia.

11 The minor would testify that she met Paul Hamilton online  
12 and after nine months of a telephonic relationship, they agreed  
13 to meet for the first time on September 11th of 2018. The  
14 minor traveled via Lyft from her home to Berkeley -- from her  
15 home in Berkeley County, West Virginia within the Northern  
16 District of West Virginia to 14801 Arabian Lane in Bowie,  
17 Maryland.

18 She would testify that Hamilton hid her inside his bedroom  
19 closet for several hours until his family left the home the  
20 next morning. The minor would testify that she removed -- she  
21 was -- that he removed her from the closet and sexually  
22 assaulted her, ejaculating inside of her on two occasions  
23 inside his home in Maryland before traveling with her through  
24 Virginia headed towards South Carolina.

25 The minor would testify that during the transport, Hamilton

1 kept possession of her cell phone, and she had no way to  
2 contact her parents. She would testify that Hamilton checked  
3 them into the Econo Lodge in Suffolk County, Virginia. And  
4 once inside, he sexually assaulted her for a third time.  
5 Hamilton also photographed the two together while in bed.

6 The minor would testify that Hamilton made A.C. get into  
7 the shower with him. And while in the shower, they heard  
8 police at the door. The police were able to retrieve her from  
9 Hamilton. And at the time, because the police responded to the  
10 report of a runaway, no arrest was made of Hamilton.

11 The minor victim supplied clothing to law enforcement for  
12 collection and testing and agreed to the collection of a rape  
13 kit gathered at Winchester Medical Center in Virginia. DNA  
14 results have been returned identifying seminal fluid of Paul  
15 Hamilton present in samples collected from the rape kit.

16 While at the Winchester Medical Center, the officers  
17 received a call that Hamilton's cell phone was currently  
18 pinging at the victim's address in Berkeley County, West  
19 Virginia. An officer responded and -- responded and arrested  
20 Hamilton in Berkeley County on a fugitive warrant from Maryland  
21 issued on the stolen vehicle complaint filed by his parents.

22 Hamilton agreed to give a statement to police and after  
23 receiving his Miranda warnings, he gave a recorded interview.  
24 Officers would testify that Hamilton reported meeting A.C. on  
25 an app, LiveMe, in November of 2017. He stated A.C. first

1 reported she was 21, but he realized she was younger after a  
2 few months. He reported he knows that she is 14 and stated  
3 that he was okay with her being 14 because he would not touch  
4 her unless she wanted him to. Hamilton added A.C. wanted to  
5 have sexual intercourse with him.

6 Hamilton reported that over the course of the relationship,  
7 A.C. sent him pictures, and they were on his phone --  
8 pornographic pictures -- and they were on his phone and that he  
9 did not ask her to send them. Hamilton's cell phone was seized  
10 on September 13, 2018, in Berkeley County pursuant to a valid  
11 search warrant. And the extraction reveals photographs,  
12 images, and text messages that established Hamilton directed  
13 A.C. to send him sexually explicit photos of herself and that  
14 he communicated with her visually in realtime directing her  
15 actions as she engaged in sexually explicit conduct. Hamilton  
16 further sent A.C. a video of himself in the shower while he was  
17 nude. Hamilton maintained on his phone 53 photographs of child  
18 pornography of minor A.C. and 26 additional videos of A.C.  
19 engaged in sexually explicit conduct that are all three seconds  
20 in duration.

21 The phone was seized in Berkeley County, West Virginia  
22 within the Northern District of West Virginia.

23 THE COURT: Thank you. Mr. Moss, do you have any  
24 questions or objections -- do you have any objection to the  
25 proffer?

1 MR. MOSS: Your Honor, I'd just note that I have not  
2 been provided any evidence regarding the results of the rape  
3 kits that Ms. Crockett mentioned nor has Mr. Hamilton been  
4 charged with that specific conduct. I do have no objection as  
5 to the proffer as it relates to the possession of the child  
6 pornography.

7 THE COURT: All right. Thank you, sir.

8 Mr. Hamilton, do you have any objections to the proffer  
9 made by the Government?

10 THE DEFENDANT: No, sir.

11 THE COURT: Mr. Hamilton, is the evidence the  
12 government attorney just presented substantially correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Did the Government's proffer accurately  
15 reflect your involvement in what occurred?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Would you explain to me what you did that  
18 makes you guilty of possession of child pornography in  
19 violation of Title 18, United States Code, Section  
20 2252A(a)(5)(B) and (b)(2).

21 THE DEFENDANT: I possessed child porn on my phone.

22 THE COURT: All right.

23 THE DEFENDANT: That's all, sir.

24 THE COURT: Photographs that were transmitted in  
25 interstate commerce of A.C.?



1 THE DEFENDANT: Yes, sir.

2 THE COURT: Who was a minor?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And this act occurred or these acts  
5 occurred on or about September 13, 2018, at or near Berkeley  
6 County in the Northern District of West Virginia?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Again, Mr. Moss, are you satisfied that  
9 if this case went to trial, there would be no meritorious legal  
10 defense to the charge, sir?

11 MR. MOSS: Yes, Your Honor, as to the charge.

12 THE COURT: And are you satisfied that Mr. Hamilton's  
13 constitutional and other rights have been observed fully?

14 MR. MOSS: I am, Your Honor.

15 THE COURT: And do you concur in his now-stated  
16 intention to enter a plea of guilty to this charge?

17 MR. MOSS: I do, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. Hamilton, I find that there is sufficient factual basis  
20 for your plea of guilty.

21 Now, sir, do you understand that you are pleading guilty to  
22 a felony offense; and if your plea is accepted, you'll be  
23 adjudged guilty of that felony offense?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And do you understand that such judgment

1 may deprive you of valuable civil rights such as your right to  
2 vote, your right to hold public office, your right to serve on  
3 a jury, and your right to possess a firearm or gun of any kind?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Have you discussed the statutory  
6 penalties that you are facing?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that you expose  
9 yourself to a maximum penalty of -- and let's confirm this  
10 again.

11 What is the maximum penalty, Ms. Crockett, for this --

12 MS. CROCKETT: Ten years. Not more than ten years,  
13 Your Honor.

14 THE COURT: All right. And that is under  
15 2252A(b)(2)?

16 MS. CROCKETT: Yes.

17 THE COURT: All right. So 20 years of imprisonment.  
18 Is it a \$250,000 fine?

19 MS. CROCKETT: It's not 20 years, Your Honor. It's  
20 10 years.

21 THE COURT: Ten years.

22 MS. CROCKETT: Yeah. And \$250,000 fine.

23 THE COURT: And what is the supervised release?

24 MS. CROCKETT: Not less than five and up to lifetime  
25 term of supervision.

1 THE COURT: All right. So we'll go through that  
2 again.

3 Mr. Hamilton, do you understand that you expose yourself to  
4 maximum penalties of 10 years of imprisonment, \$250,000 fine,  
5 and a term of at least five years and up to a lifetime of  
6 supervised release?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand that the mandatory  
9 minimum sentence under Count 1 is that if you were sentenced to  
10 a term of imprisonment, you'll be sentenced to at least five  
11 years of supervised release?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand that supervised release  
14 means that after imprisonment, you will be supervised by the  
15 probation office under conditions that will be set by this  
16 Court?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that if you violate the  
19 terms of your supervised release, the Court may revoke the term  
20 of your supervised release and order you to serve a term in  
21 prison?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And do you understand that you'll be  
24 required to pay a special assessment of \$100 for having been  
25 convicted of a felony offense?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that unless you are  
3 determined to be indigent, you'll be required to pay an  
4 additional special assessment of \$5,000 under the Justice for  
5 Victims of Trafficking Act under Title 18, United States Code,  
6 Section 3014(a)(3)?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand as part of your fine,  
9 you could be required to pay the cost of incarceration and/or  
10 the cost of supervision upon release?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you discussed those costs with  
13 Mr. Moss?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you understand that it now costs  
16 \$3,121 per month per person for prison; \$373 per month per  
17 person for supervised release; and \$2,874 per month per person  
18 for a residential reentry center?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Sir, do you understand that the Court has  
21 the authority to order restitution in your case?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And, if applicable, do you understand  
24 that the Government may seek forfeiture in your case?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you understand that upon release  
2 from imprisonment, you'll be required to register as a sex  
3 offender and keep that registration current?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand by pleading guilty, if  
6 you are not a citizen of the United States, you may be removed  
7 from the United States, denied citizenship, and denied  
8 admission to the United States in the future?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Sir, do you understand that the U.S.  
11 Sentencing Guidelines play an important role in determining a  
12 sentence in your case?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you discussed the application of the  
15 U.S. Sentencing Guidelines to your case with Mr. Moss?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand that the Court will not  
18 be able to determine the applicable advisory guideline sentence  
19 for your case until after the presentence investigation report  
20 has been completed and you and the Government have had an  
21 opportunity to review it and to challenge the facts determined  
22 by the probation officer and the application of the guidelines  
23 recommended by the probation officer?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that the sentence

1 imposed upon you by the Court may be different from any  
2 estimate Mr. Moss may have given you or what you thought it  
3 would be?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you also understand that the Court  
6 must calculate the applicable advisory U.S. Sentencing  
7 Guidelines and consider that range, and the Court must also  
8 consider possible departures under the U.S. Sentencing  
9 Guidelines and other sentencing factors under Title 18, United  
10 States Code, Section 3553(a)?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that the Court is not  
13 bound by the advisory guideline range and has the authority to  
14 impose a sentence that is more severe or less severe than the  
15 sentence called for by the guidelines?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you also understand that parole has  
18 been abolished and that you will not be released on parole if  
19 you were sentenced to prison?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand that even if you do not  
22 like the sentence imposed upon you by the Court, you will still  
23 be bound by your plea and will have no right to withdraw it?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that you have the right

1 to testify at your sentencing hearing should you so desire?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Now, sir, everyone found guilty of a  
4 crime in federal court in this district has the right to appeal  
5 the conviction and sentence to the Fourth Circuit Court of  
6 Appeals in Richmond, Virginia. In Richmond, a three-judge  
7 panel reviews the conviction and sentence to see if it was done  
8 correctly.

9 Do you understand that you may have a right to appeal your  
10 conviction if you believe that your guilty plea was unlawful or  
11 involuntary or that there was some other fundamental defect in  
12 the proceedings?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: However, you agree that your guilty plea  
15 today is lawful and voluntary and that there has been no  
16 fundamental defect in the proceedings that you're aware of; is  
17 that correct, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you also understand that everyone has  
20 the right to challenge their conviction or sentence or the  
21 manner in which it was determined in a post-conviction  
22 proceeding, sometimes called a habeas corpus petition or  
23 collateral attack, under Title 28, United States Code, Section  
24 2255?

25 THE DEFENDANT: Yes, sir.

1           THE COURT: Do you understand that your legal  
2 remedies on appeal or collateral attack include claims of  
3 ineffective assistance of counsel or prosecutorial misconduct?

4           THE DEFENDANT: Yes, sir.

5           THE COURT: However, you agree that there is  
6 currently no known evidence of ineffective assistance of  
7 counsel or prosecutorial misconduct; is that correct, sir?

8           THE DEFENDANT: Yes, sir.

9           THE COURT: Sir, do you understand that you or the  
10 Government may have a right to appeal any sentence that the  
11 Court imposes?

12          THE DEFENDANT: Yes, sir.

13          THE COURT: Now, Mr. Hamilton, do you understand with  
14 few exceptions should you find some basis on which to file an  
15 appeal, any notice of an appeal must be filed within 14 days of  
16 judgment being entered in your case?

17          THE DEFENDANT: Yes, sir.

18          THE COURT: Based on your responses, Mr. Hamilton, I  
19 find that you understand the nature of the charge and the  
20 consequences of a guilty plea to that charge.

21          Sir, do you understand that you have the right to continue  
22 to plead not guilty to the charge?

23          THE DEFENDANT: Yes, sir.

24          THE COURT: Do you understand that by pleading  
25 guilty, you give up your right to a speedy and public trial by



1 jury?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you also understand that by pleading  
4 guilty, you give up your right to force the Government to come  
5 forward with witnesses and evidence against you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that you would have  
8 been presumed innocent until the Government presented enough  
9 evidence to satisfy both the judge and a jury beyond a  
10 reasonable doubt of your guilt?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that when you admit  
13 your guilt as you have here, you relieve the Government of the  
14 burden of proving your guilt?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that you would have had  
17 the right to the assistance of counsel at trial?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand that you and your  
20 attorney, Mr. Moss, would have had the right to confront and  
21 cross examine your accusers and to test the truth of what they  
22 said?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that by pleading  
25 guilty, you give up that right?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand that had you desired to  
3 go to trial and wished to call witnesses that you would have  
4 been entitled to the services of the U.S. Marshal to bring  
5 witnesses to court under subpoena?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that by pleading  
8 guilty, you give up your right to call witnesses except for  
9 your sentencing hearing?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that you would have had  
12 the right to move to suppress or keep away from the jury's  
13 hearing and consideration any evidence of any nature that had  
14 been illegally or unlawfully obtained?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that had you desired to  
17 go to trial that you would have had the right to testify at  
18 trial?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: However, you understand that you could  
21 not have been compelled or forced to testify at trial?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand that you would have had  
24 the right to go to trial and remain silent; that is, not take  
25 the witness stand or call any witnesses or present any evidence

1    whatsoever on your own behalf?

2               THE DEFENDANT:   Yes, sir.

3               THE COURT:   Do you understand that the Court would  
4   have instructed the jury that they could not convict you  
5   because you'd exercised your constitutional right to remain  
6   silent; they could only base their decision on an offer of  
7   proof from the Government?

8               THE DEFENDANT:   Yes, sir.

9               THE COURT:   Do you understand that you give up your  
10   right to a unanimous verdict from a jury?

11              THE DEFENDANT:   Yes, sir.

12              THE COURT:   Mr. Moss, do you believe that  
13   Mr. Hamilton understands the consequences of his guilty plea,  
14   sir?

15              MR. MOSS:   Yes, Your Honor, I do.

16              THE COURT:   Mr. Hamilton, I find that you understand  
17   the constitutional and other legal rights you're giving up by  
18   pleading guilty.

19              Now, Mr. Hamilton, knowing all of those things, do you  
20   still wish to plead guilty at this time?

21              THE DEFENDANT:   Yes, sir.

22              THE COURT:   Sir, has any person forced you,  
23   threatened you, coerced you, intimidated you, or talked you  
24   into entering a guilty plea against your will?

25              THE DEFENDANT:   No, sir.

1           THE COURT: Are you acting voluntarily and of your  
2 own free will in entering this guilty plea?

3           THE DEFENDANT: Yes, sir.

4           THE COURT: Mr. Hamilton, are you pleading guilty  
5 because you are guilty of the crime charged in Count 1 of the  
6 original indictment?

7           THE DEFENDANT: Yes, sir.

8           THE COURT: Sir, has anyone promised or told you  
9 something that is different from what I've told you today to  
10 get you to plead guilty?

11          THE DEFENDANT: No, sir.

12          THE COURT: Sir, are you pleading guilty to protect  
13 anyone?

14          THE DEFENDANT: No, sir.

15          THE COURT: Sir, has anyone promised or predicted the  
16 exact sentence which will be imposed upon you in this matter?

17          THE DEFENDANT: No, sir.

18          THE COURT: Sir, do you understand that at this time,  
19 no one can know the exact sentence which will be imposed in  
20 your case?

21          THE DEFENDANT: Yes, sir.

22          THE COURT: Mr. Hamilton, have you been able to fully  
23 understand what is going on in this proceeding today?

24          THE DEFENDANT: Yes, sir.

25          THE COURT: Based on your responses, I find that your

1 guilty plea is voluntary.

2 Now, again, sir, at this time, do you have any questions or  
3 second thoughts about entering a plea of guilty to the charge?

4 THE DEFENDANT: No, sir.

5 THE COURT: Would you please stand for me.

6 How do you plead to Count 1 of the original indictment  
7 charging you with possession of child pornography?

8 THE DEFENDANT: Guilty, sir.

9 THE COURT: All right. Thank you. Please be seated.

10 In the case of United States versus Paul Glen Hamilton,  
11 Jr., I find that Mr. Hamilton is fully competent and capable of  
12 entering into an informed plea. I find that there is a  
13 sufficient factual basis for his plea of guilty. I find that  
14 Mr. Hamilton understands the nature of the charge and the  
15 consequences of the guilty plea to the charge. I find that  
16 Mr. Hamilton understands the constitutional and other legal  
17 rights he is giving up because of the plea, and I find that  
18 Mr. Hamilton's plea is voluntary.

19 While I defer adjudging the defendant guilty to the  
20 sentencing court, I do accept the plea of guilty to Count 1 of  
21 the original indictment.

22 Mr. Hamilton, the sentencing court must consider the  
23 following factors when determining the sentence that you will  
24 receive: The nature and circumstances of the offense; your  
25 history and characteristics; the necessity of punishing you,

1 deterring you, protecting the public from you or providing you  
2 with training, medical care, or other treatment; the kinds of  
3 sentences and sentencing range established by the sentencing  
4 guidelines; the need to give defendants with similar criminal  
5 records similar sentences; and the need to provide restitution  
6 to any victims of the offense.

7 In order to help the Court consider these factors, the  
8 probation office is required to conduct a presentence  
9 investigation of you and submit a report to the sentencing  
10 court. The information in this report might have an impact on  
11 the sentence you ultimately receive. I strongly encourage you  
12 to discuss this process and your participation in the same with  
13 your attorney, Mr. Moss.

14 Understand, Mr. Hamilton, that you must not commit any  
15 crimes between now and sentencing because there are additional  
16 punishments that may be imposed for committing additional  
17 crimes. Do you understand, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Pursuant to Section 6A1 of the United  
20 States Sentencing Guidelines, I order the probation office to  
21 conduct a presentence investigation of Mr. Hamilton, prepare a  
22 draft presentence investigation report, and disclose its  
23 contents to the Government and Mr. Hamilton. I further direct  
24 that the probation officer and all parties comply with Federal  
25 Rule of Criminal Procedure 32 and U.S. Sentencing Guidelines

1 Section 6A1.2 regarding deadlines for disclosure, objection,  
2 departure motion, or sentencing statement requirements. The  
3 sentencing court will set this matter for sentencing following  
4 receipt of the presentence report.

5 Mr. Moss, Ms. Crockett, if either of you anticipate a  
6 lengthy sentencing hearing, please notify the sentencing court  
7 in advance so that an adequate amount of time can be set aside  
8 for that hearing.

9 MS. CROCKETT: Yes, Your Honor.

10 MR. MOSS: Yes, Your Honor.

11 THE COURT: All right, Counsel. Anything further we  
12 need to address before we adjourn this morning?

13 MS. CROCKETT: No, Your Honor.

14 MR. MOSS: No, Your Honor. Thank you.

15 THE COURT: All right. With that in mind, the  
16 defendant is remanded to the custody of the U.S. Marshals  
17 Service and we stand adjourned. Thank you.

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19 (Proceedings concluded at 10:31 A.M.)

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CERTIFICATE

I, Kate A. Slayden, Registered Professional Reporter and Official Court Reporter of the United States District Court for the Northern District of West Virginia, do hereby certify that the foregoing is a true and correct transcript to the best of my ability of the digitally-recorded proceedings had in the above-styled action on July 24, 2019, as transcribed by me.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

Given under my hand this 16th day of December, 2019.

/s/Kate A. Slayden

Kate A. Slayden, RPR, CCR  
Official Reporter, United States  
District Court for the Northern  
District of West Virginia